

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 266 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?
No

LAXMISHANKAR M BHATT

Versus

STATE OF GUJARAT

Appearance:

MR BHARAT J SHELAT for Petitioner
M/S MG DOSHIT & CO for Respondent No. 1
SERVED for Respondent No. 3

CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 10/11/97

ORAL JUDGEMENT

1. The petitioner who was Taluka Development Officer
Class II challenges his supersession by respondent no.3,
his junior, to Class I post of Deputy Development

Officer. The main basis on which the supersession is challenged is that the respondent no.3 is junior to the petitioner and when his junior was promoted, the petitioner should have been promoted. There are no recruitment rules pointed out to the Court by the petitioner regarding criteria of promotion from Class II post to Class I post. However, Rule 10 of the Gujarat Panchayat Service (Classification and Recruitment) Rules, 1967 clearly provides that where an appointment is to be made by promotion, no servant shall be entitled to such promotion only on the ground of seniority.

2. Moreover, in the present case, the previous record of the petitioner is not good. He has been punished twice by stoppage of one increment and stoppage of two increments without future effect by orders dated 25th July 1980 and 8th September 1980.

The adverse remarks dated 16th June 1980 at annexure G and dated 4th July 1983 at annexure I read as follows:-

"(1) Proper exercise He has failed to use delegated powers. delegated powers properly in Dadva plot cases....

(2) Capacity for organisation & to get work from subordinates: Requires experience. "

"(1) Capacity to take quick and sound decisions:

At times he has an inclination to take a hasty and ill-judged decision.

(2) Review Remarks Col.2:

I would consider this officer more a liability than an asset. He lacks in discipline. He could not achieve target in construction of houses for landless. Not a dependable officer.
"

Representations against these adverse remarks have been rejected.

3. The petitioner has also challenged these adverse remarks and the orders rejecting his representations.

However, having regard to the facts and circumstances of the case and the fact that the petitioner was twice punished, there is no case made out for any interference in the administrative action of the respondents. The adverse remarks cannot be said to be without any basis. The persons with such service record cannot be promoted to class I service.

4. In the result, the petition is dismissed. Rule discharged. Interim relief vacated.

mhs/-